

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

CITY OF CHICAGO, ILLINOIS

Plaintiff,

v.

EBAY, INC.

Defendant.

Case No. 08 CV 3281

Hon. Blanche M. Manning

RENEWED AGREED MOTION FOR LEAVE TO FILE AN OVERSIZE BRIEF

Defendant eBay, Inc. ("eBay"), by and through its attorneys, hereby renews its request for an order granting eBay leave to file an oversize memorandum of law in support of its motion to dismiss. In support of this agreed motion, eBay states as follows:

1. On August 4, 2008, eBay filed its Agreed Motion for Leave to File an Oversize Brief, requesting leave to file an oversize memorandum not to exceed 40 pages in support of its motion to dismiss. eBay's agreed motion explained that its motion to dismiss addressed a number of complex and potentially case-dispositive legal issues that could not be fully articulated within a 15-page memorandum.

2. On August 6, 2008, this Court denied eBay's Agreed Motion without prejudice, and requested further detail on why eBay required additional pages.

3. eBay recognizes that granting a party's request for additional pages places a burden on judicial resources and therefore should not be sought unless it is necessary given the legal and factual issues involved. Having reviewed the number of potentially dispositive issues presented by the City's Complaint and the serious threat to eBay's fundamental business model

that the relief sought poses, eBay sincerely believes that in order for it to adequately present the range of legal deficiencies in the Complaint, additional briefing pages are necessary.

4. The City of Chicago originally filed this action against eBay in the Circuit Court of Cook County in an attempt to collect the City's 8% amusement tax on tickets that are sold through eBay's Internet listing service. eBay removed the City's collection action to this Court on diversity grounds and intends to seek full dismissal of the Complaint.

5. The City is attempting to impose a tax on eBay's Internet listing service for ticket sales that do not involve the participation of eBay as either a buyer or a seller and that may have no direct connection to the City.

6. eBay's request for additional pages therefore arises directly from the complex constitutional and other legal issues raised by the City's Complaint. The City's Complaint raises issues regarding the commerce clause of the U.S. Constitution and implicates several other Internet-related federal statutes. The Complaint also raises issues of whether the City's amusement tax is a permissible exercise of the City's home rule authority, and that question is heavily informed by the legislative history of the Illinois Ticket Sale and Resale Act.

7. eBay has sought to be as judicious as possible in drafting its supporting memorandum of law. However, because of the multitude of complex legal issues raised by the Complaint, an adequate treatment of the grounds for dismissal simply cannot be made in 15 pages. In fact, given the number of potentially case-dispositive legal issues addressed in eBay's motion to dismiss, eBay believes 40 pages are necessary to provide a fulsome discussion of the legal issues raised by the City's Complaint.

8. eBay seeks these additional pages so that it can present the full range of issues for the Court, as well as to the City. In this way, the City will have the benefit of notice of all of

eBay's challenges to the Complaint in eBay's opening motion so that its own response is as complete as possible.

9. eBay has conferred with Plaintiff's counsel, and Plaintiff's counsel has agreed to eBay's motion for leave to file an oversize memorandum not exceeding 40 pages.

WHEREFORE, Defendant eBay, Inc. respectfully requests an order granting it leave to file a memorandum in excess of 15 pages, but no longer than 40 pages, in support of its motion to dismiss.

Dated August 6, 2008

Respectfully submitted,

eBay, Inc.

By: /s/ Lori E. Lightfoot
One of its attorneys

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CERTIFICATE OF SERVICE

The undersigned, an attorney, hereby certifies that on August 6, 2008, she caused a copy of the foregoing Defendant eBay, Inc.'s RENEWED AGREED MOTION FOR LEAVE TO FILE AN OVERSIZE BRIEF and NOTICE OF RENEWED AGREED MOTION regarding same via the Northern District of Illinois Electronic Filing System to all registered counsel.

Dated August 6, 2008

Respectfully submitted,

By: /s/ Lori E. Lightfoot
Lori E. Lightfoot